

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Consolidated Matters of: | |
| PARENT ON BEHALF OF STUDENT, | OAH Case No. 2016031000 |
| v. | |
| DOWNEY UNIFIED SCHOOL DISTRICT, | |
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| DOWNEY UNIFIED SCHOOL DISTRICT, | OAH Case No. 2016031344 |
| v. | ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE |
| PARENT ON BEHALF OF STUDENT. | |

On March 18, 2016, Parent on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2016031000 (Student's Case), naming Downey Unified School District.

On March 23, 2016, District filed a Request for Due Process Hearing in OAH case number 2016031344 (District's Case), naming Student.

On April 6, 2016, Student filed a Motion to Consolidate Student's Case with District's Case and to continue the due process hearing date set in Case Number 2016031000 (Student's Case).

On April 6, 2016, District filed a response stating it did not object to consolidation and agreed to continue the due process hearing to dates submitted by Student.

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, Student's Case and District's Case involve a common question of law or fact, specifically, the appropriateness of the October 14, 2015 Individualized Education Program, as amended on March 14, 2016. District does not oppose the motion. Accordingly, consolidation is granted.

Continuance

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

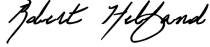
Student's motion to continue the hearing demonstrates good cause for a continuance, based on Student's counsel be unavailable due to a pre-paid vacation during the scheduled hearing dates.

ORDER

1. Student's Motion to Consolidate is granted. Student's case will be designated the primary case.
2. All dates previously set in OAH Case Number 2016031344 (District's Case) are vacated.
3. Student's Motion to Continue is granted. The Mediation in the above-captioned case shall be held on April 21, 2016 at 9:30 a.m., the Prehearing Conference in the consolidated cases shall be held on May 16, 2016, at 1:00 p.m., and the Due Process Hearing in the consolidated cases shall be held on May 24, 2016 through May 26, 2016 at 9:30 a.m. on the first day, 9:00 a.m. on other days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH Case Number 2016031000 (Student's Case).

DATE: April 8, 2016

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ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings